

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION
2007 JAN 31 A 9 31

TIMOTHY BERNARD EDWARD, U.S. DISTRICT
MIDDLE DISTRICT
Plaintiff.

vs.

ANTHONY CLARK, et al.,
Defendants.

CASE NO: 2:06-CV-298-MHT(WO)

OBJECTION TO THE MAGISTRATE JUDGE'S RECOMMENDATION

Comes Now, the Plaintiff in the above styled manner and makes this Objection to the Magistrate Judge's Recommendation entered on the 11th day of January, 2007, and in support hereof, the Plaintiff shows unto this Honorable Court as follows:

The Plaintiff avers that he has in fact received and further requested for a number of extensions to file his response to the defendant's answer and written report filed pursuant to the magistrate's Judge's order, how ever, as the Plaintiff has, prior to this present order, made a number of attempts to acquire his papers of the asnwer and report filed by the defendants, which the Plaintiff avers that the same was in the possession of one of the law clerk's at the Kilby Correctional Center, and which prison officials refused to allow the plaintiff to otherwise get his documents therefrom prior to being transferred from that prison facility, which resulted in the Plaintiff being transferred without the answer and report filed by the Defendants, as well as the original papers that the Plaintiff had

filed with this Honorable Court, leaving the Plaintiff without any of his documents that would have allowed the Plaintiff to seek further assistance by inmate legal clerks, however, the Plaintiff has been unable to retain his documentations so that he may otherwise comply with the Magistrate Judge's orders.

The Plaintiff further avers that he don't even have the acquired knowledge of remembering the remotest contents of the answer and written report filed by the defendants in order to convey enough information, so that a response in opposition thereto the written report can be made, and the only alternative the Plaintiff had was to request that the District Court allow the Clerk Office to provide the Plaintiff with copies of the lost documents, however, the Plaintiff was not advised to take this alternative route, and instead sought to get the documents from the inmate that the documents were forced to be left with due to the prison officials not allowing the Plaintiff to get the said documents from the institutional clerk prior to being transferred from the prison facility.

The Plaintiff avers that he has meant no lack of respect for the Court's prior orders that he has failed to otherwise obey and comply therewith, and the Plaintiff ask that this Honorable Court not take his failure to respond as a lack of respect for the Court, because the Plaintiff avers that he actually is unlearned in the law, and simply did not know what to do after his papers were forced to be left at the prior prison facility where the Plaintiff was received at, and all this Plaintiff figured that he could do was to get his papers from the inmate so he could have someone at the present facility file the necessary opposition to the defendants answer and written report as he was ordered by the

Magistrate Judge.

The Plaintiff respectfully avers that he has not deliberately ignored this Honorable Court's orders, and due to circumstances beyond his power of control, he has been forced into a position that would clearly allow this Honorable Court to dismiss his complaint for failure to prosecute or otherwise comply with the directives of this Honorable Court.

The Plaintiff understands that this Honorable Court will consider a Plaintiff's complaint under less stringent standards, and although the Plaintiff has been in disobedience to the Magistrate's Judge's prior orders, the Plaintiff avers that he has had absolutely no actual intent in the disobedience which the Magistrate Judge has alluded to the Plaintiff having a lack of respect for the Court due to this disobedience which has been of no fault of the Plaintiff due to the forementioned circumstances, this Plaintiff respectfully pray that this Honorable Court will allow the Plaintiff to continue with his complaint against the Defendants, and in furtherance thereto, allow the Plaintiff to receive from the Court Clerk's Office copies of the documents filed by this Plaintiff, as well as the documents filed by the Defendants, and allow the Plaintiff a time certain by the Court to respond thereto, which the Plaintiff avers that he presently has the aide of inmate legal assistance available to aide him in forming such a timely response in opposition to the Defendants answer and written report, otherwise, with the necessary documents to review by the legal aide, the Plaintiff has been unable to respond thereto as ordered, and pleading such actions without the necessary documentations would otherwise be in vain.

Wherefore, with the following premises duly considered, this Plaintiff respectfully prays that this Honorable Court will consider the matters herein, and should this Honorable Court allow the Plaintiff to continue and issue the specific orders for the replacement of the necessary documentations, and order the Plaintiff to thereafter respond in a time certain, the Plaintiff asserts that he will respond in a timely manner as ordered, and should this Honorable Court find otherwise, and adopt the Magistrate Judge's recommendation, and proceed to dismiss the complaint by this Plaintiff, then the Plaintiff understands, and apologizes to the Court in earnest.

Done on this the 25th day of January, 2007.

Respectfully Submitted,

Timothy Bernard Edwards
Timothy Bernard Edward
Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing on the Defendants by placing a copy of the same in the prison mailbox for proper mailing in the United States mail, and having properly stamped and addressed the same on this the 25th day of January, 2007.

COBB, SHEALY, CRUM, DERRICK & PIKE, P.A.
C/O HON. JAMES H. PIKE, (PIK003)
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Timothy Bernard Edwards
Timothy Bernard Edward
Plaintiff